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SENATE

{ REPORT
No. 1973

JOSEPH DENEKAR AND MRS. MARY A. DENEKAR

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 4180]

The Committee on the Judiciary, to which was referred the bill (H. R. 4180) for the relief of Joseph Denekar and Mrs. Mary A. Denekar, having considered the same, reports favorably thereon, with an amendment, and recommends that the bill, as amended, do pass.

AMENDMENT

On page 1, line 10, beginning with the word "In" strike all down to and including the period on line 13.

PURPOSE

The purpose of the proposed legislation is to relieve Joseph Denekar and Mrs. Mary A. Denekar, of Watervliet, N. Y., of all liability to refund to the United States the sum of \$2,800, representing the aggregate amount that was paid to the said Mrs. Mary A. Denekar as a family allowance for the period from November 1, 1946, to September 30, 1949, inclusive, after the discharge from the Army of the said Joseph Denekar.

STATEMENT

After his induction into the Army of the United States Pvt. Joseph Denekar authorized a deduction from his pay of \$22 per month as an allotment to his wife, Mrs. Mary A. Denekar, to begin with the month of February 1945. Thereafter, a family allowance of \$80 per month (\$22 deducted from Private Denekar's pay, plus \$58 supplemented by the United States) was paid to Mrs. Denekar.

Private Denekar was discharged from the Army on October 21, 1946, in Japan. Sometime prior to his discharge from the Army Mr. and Mrs. Denekar had been estranged. At the time of his discharge Private Denekar did not advise his wife of his discharge from the service, nor did she receive notice from the Army that she was no longer entitled to receive the allotment previously paid to her. As a matter of fact, she continued to receive this allotment through the month of September 1949, although the allotment should have ceased on October 31, 1946. As a result of this mistake Mrs. Denekar received a total overpayment of \$2,800.

On December 2, 1949, the Office of the Chief of Finance, Army Finance Center, St. Louis, Mo., sent a letter to Mrs. Denekar advising her that she was not entitled to receive an allotment after October 31, 1946, and demanding that she refund to the United States the total amount of the allotment which she had received subsequent to that date. A similar demand has been made upon Mr. Denekar.

The Department of the Army in reporting on this legislation states that since Mr. and Mrs. Denekar are both now unable to repay the United States the amount of the erroneous payments, it would be a severe hardship upon these claimants to compel them to repay the United States the sum which she received. The Department report also acknowledges that it was the duty of the Army not only to cease paying the family allowance to Mrs. Denekar but to notify her that she was no longer entitled to receive such allowance. Consequently, the Department of the Army indicated that it would have no objection to the enactment of this legislation if it were amended in the manner which they suggest.

The committee agrees with the Department of the Army that it would be inequitable to require the claimants to refund the payments which Mrs. Denekar received as a result of a mistake on the part of someone in the Army. However, the committee has no information which would justify it in adopting the proposal of the Department of the Army that full credit be given the disbursing officer or officers responsible for the payment of this sum, and the committee therefore has amended the bill by deleting reference to the disbursing officers. This is in conformity with the action taken by the committee on H. R. 6458 of the Eighty-first Congress, second session. With this amendment, the committee recommends favorable consideration of this legislation.

Attached hereto is the report of the Department of the Army submitted in connection with this legislation.

DEPARTMENT OF THE ARMY,
Washington, D. C., October 17, 1951.

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives.*

DEAR MR. CELLER: The Department of the Army would have no objection to the enactment of H. R. 4180, Eighty-second Congress, a bill for the relief of Joseph Denekar and Mrs. Mary A. Denekar, if it should be amended as hereinafter recommended.

This bill provides as follows:

"That the Comptroller General of the United States be, and he is hereby, authorized and directed to credit the accounts of Joseph Denekar and his wife Mrs. Mary A. Denekar, of Watervliet, N. Y., in the amount of \$2,800 which was

paid Mrs. Mary A. Denekar as family allowance, after the discharge from the Army of the said Joseph Denekar, from October 21, 1946, through September 30, 1949."

The records of the Department of the Army show that Joseph Denekar was born in Troy, N. Y., on April 24, 1915; that on January 5, 1945, he was inducted into the Army of the United States as a private; and that on October 21, 1946, while serving in Japan as a technician fifth grade he was honorably discharged from the Army. He was discharged in Japan in order that he might accept a civilian position with the United States Army in that country (engineer section chief, SP-7, at a salary of \$3,776.25 per annum).

After his induction into the Army Private Denekar authorized a deduction from his pay of \$22 per month as an allotment to his wife, Mrs. Mary A. Denekar, to commence with the month of February 1945. Thereafter a family allowance of \$80 per month (\$22 deducted from Private Denekar's pay, plus \$58 supplemented by the United States) was paid to Mrs. Denekar. As Private Denekar was discharged from the Army on October 21, 1946, Mrs. Denekar's right to receive such family allowance ceased on October 31, 1946. Upon the discharge of Private Denekar it became the duty of the Army not only to cease paying the family allowance to Mrs. Denekar but to notify her that she was no longer entitled to receive such allowance. However, because of the delayed receipt by the Army Finance Center, Office of the Chief of Finance, St. Louis, Mo., of the notice of the discontinuance of the allotment to Mrs. Denekar payments of the allotment to her continued through the month of September 1949, which resulted in a total overpayment of such allotment in the amount of \$2,800.

On December 2, 1949, the Army Finance Center, Office of the Chief of Finance, St. Louis, Mo., sent a letter to Mrs. Denekar advising her that she was not entitled to receive an allotment after October 31, 1946, and demanding that she refund to the United States the total amount of the allotment which she had received subsequent to that date. A similar demand was made by the Army Finance Center on Mr. Denekar on February 21, 1951.

It appears from the evidence in this case that Mr. and Mrs. Denekar had been estranged for some time prior to his discharge from the Army on October 21, 1946; that he did not advise her of his discharge from the service; and that he assumed, as he had a right to do, that no further payment of family allowance would be made to her after the month of October 1946. Immediately after his discharge from the Army Mr. Denekar began sending money to his wife in amounts averaging over \$100 per month. The evidence shows that during the period between November 1, 1946, and March 31, 1951, he sent to her by money orders sums aggregating \$5,935.

The erroneous payments of family allowance to Mrs. Denekar in the aggregate sum of \$2,800 subsequent to the month of October 1946 were not caused by any fault or negligence on her part or on the part of Mr. Denekar, but resulted solely from the failure of the notice of discontinuance of said allowance to arrive at the Army Finance Center at St. Louis, Mo., until nearly 3 years after Mr. Denekar discharge from the Army. Neither Mr. Denekar nor Mrs. Denekar are now able to repay to the United States the amount of such erroneous payments. Under the circumstances of this case it would be a rather severe hardship upon these claimants to compel them, or either of them, to repay to the United States the said sum of \$2,800, or any part thereof. The Department of the Army, therefore, would have no objection to the enactment of H. R. 4180 if the text thereof should be amended to read as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Joseph Denekar and Mrs. Mary A. Denekar, of Watervliet, New York, be, and they are hereby, relieved of all liability to refund to the United States the sum of \$2,800, representing the aggregate amount that was paid to the said Mrs. Mary A. Denekar as a family allowance for the period from November 1, 1946, to September 30, 1949, inclusive, after the discharge from the Army of the said Joseph Denekar. In the settlement of the accounts of any disbursing officer or disbursing officers of the United States full credit shall be given for the said payment of \$2,800 to Mrs. Mary A. Denekar."

Inasmuch as the committee has requested that this report be expedited, it is submitted without a determination by the Bureau of the Budget as to whether it conforms to the program of the President.

Sincerely yours,

• FRANK PACE, Jr.,
Secretary of the Army.

